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ABSTRACT

Regulations governing classification of students for tuition purposes in each of the 50 states (including Guam, Puerto Rico, and the Virgin Islands) are summarized. This is followed by summaries of a number of court cases challenging the residency classification procedures used by public institutions of higher education. Each summary of state regulations indicates how many sets of regulations exist in the state and identifies the body or agency that promulgated the rules. Further, each summary points out the basic requirement for resident status, exceptions to the rules, and appeal procedures if they exist. The cases summarized in the second section, relevant legal actions, involve questions of the right of public institutions to assess tuition charges, admission to public colleges or universities, and the reclassification of students who were initially considered nonresidents for tuition purposes. (SPG)

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HIGHER EDUCATION IN THE STATES

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In This Issue: This is the first special issue of *Higher Education in the States* (a "bonus" issue for subscribers to the three regular annual issues) of what we hope will be a series of special reports requested by and of use to the states. In 1970 ECS published a report by Robert F. Carbone entitled *Resident or Nonresident?* that examined the wide variety of practices in the various states determining residency or nonresidency of students for tuition purposes in public institutions of higher education. The report, now out of print, included appendices containing summaries of state regulations and relevant court cases as of early 1970. This issue revises and updates the state regulations in effect as of December 1977 (page 125) and updates the relevant court cases as of December 15, 1977 (page 140).

I. SUMMARY OF STATE REGULATIONS

This section contains brief summaries of regulations governing classification of students for tuition purposes in each state (including Guam, Puerto Rico and the Virgin Islands). Each summary indicates how many sets of regulations exist in the state and identifies the body or agency that promulgated the rules. Further, each summary points out the basic requirements for resident status, exceptions to the rules and appeal procedures if they exist.

Note that the term "parents" as used here means the mother and/or father of the student, the person awarded legal custody or guardianship, the person who assumes responsibility for the student or the one upon whom the student is dependent.

In these summaries an effort was made to translate the sometimes legalistic language to more commonly understood terms. The descriptions of those states possessing several sets of regulations are of necessity more general in nature. The intention is to give the reader an overview of the existing rules in each state. If specific details and definitions used in any state are required, it is advisable to secure the complete statement of regulations from the appropriate institution or agency in that state. These summaries are not official statements of the rules of any state and should not be interpreted as such. It should be kept in mind that rules change, intentions are often difficult to ascertain and interpretations differ.

ALABAMA

A section of the Alabama Code stipulates that a student may not earn resident status while attending a state institution, but the detailed policy for residency classification is made by the institutional trustees or administrators. As a result the policy varies among the colleges and universities. Several universities, especially those that are near the boundary of another state, have eliminated nonresident fees entirely. The state's system of junior and community colleges no longer levies a nonresident fee on out-of-state students. At some universities the minimum period required to qualify for resident status is 6 months prior to enrollment, while at others it is 12 months. Exemptions from nonresident fees are granted to different categories of students at the several institutions. Some exempt teaching and research assistants while some do not and one institution exempts all graduate students. Faculty and their dependents and the dependents of military personnel pay resident fees in most institutions. When parents move from the state some institutions consider dependent children nonresidents immediately, while others allow them to continue as resident students for six months. One institution allows emancipated students who cannot claim residency in any other state to qualify for resident fees, but they must pay out-of-state rates during their initial year of attendance. Some of the institutions have no formal appeal procedure. In those that do, appeals are usually handled by an administrative officer.

ALASKA

Alaskan residents, as well as students from Hawaii, the Yukon Territory and the Northwest Territories, are exempt from a nonresident tuition fee. For purposes of nonresident tuition a resident is any person who has been physically present in Alaska for one year (excepting only vacations or other absence for temporary purposes with *intent* to return) and who declares intention to remain in Alaska indefinitely. However, any person who within one year has declared himself/herself to be a resident of another state, voted in another state or done any act inconsistent with Alaska residence, shall be deemed a nonresident for purposes of nonresident tuition. An unemancipated person under the age of 18 who has a parent or guardian who qualifies as an Alaska resident, as defined above, shall be deemed a resident, and otherwise such unemancipated person under the age of 18 shall be deemed a nonresident for purposes of nonresident tuition.

ARIZONA

Guidelines established by the Arizona Board of Regents in accordance with statutory mandate cover the three public universities in the state. The student, or his parent or guardian, must have resided in Arizona for one year prior to registration to qualify as a resident and be able to establish that residency by clear and convincing evidence. Nonresident tuition fees are waived for students carrying fewer than seven credits and certain military personnel and their dependents are granted waivers or in-state residency. Teaching assistants and graduate assistants may receive a waiver of nonresident tuition fees as a portion of compensation. A committee on legal residence on each campus hears appeals, which must be filed within 35 days of the last day of registration.

ARKANSAS

Residency regulations in Arkansas are recommended by the State Board of Higher Education and adopted by the institutional boards of trustees. All institutions abide by the same regulations. No student shall be admitted to a state-supported institution with an in-state classification unless he or she is a bona fide domiciliary of the state and has resided in the state in that status for at least six consecutive months prior to the beginning of the term for which fees are to be paid. Initial classification as an out-of-state student shall not prejudice the right of the student to be reclassified if he or she has acquired an Arkansas domicile and has resided in the state thereafter for six continuous months prior to reclassification. For those students whose status depends upon the place of parental residence, the above shall determine the domicile of the parents. Marriage constitutes emancipation of minors, both male and female. As long as she is living with him, the domicile of a wife is the same as that of her husband. Students living in the states bordering Arkansas who receive mail at an Arkansas post office are not considered residents of the state. A member of the armed forces stationed in Arkansas under military orders, as well as his or her unemancipated dependents, shall be entitled to in-state classification.

CALIFORNIA

A student must have been a California resident for at least one year immediately preceding the residency determination date. At state universities the residency determination date is set for each academic term. The student who is within the state solely for educational purposes does not gain residence status regardless of the length of stay in California. In general, the unmarried minor derives legal residence from his/her parents or, in the case of permanent separation of the parents, from the parent with whom the minor maintains his/her place of abode. The residence of a minor cannot be changed by act of the minor or that of the minor's guardian so long as the minor's parents are living. A person may establish his or her residence and marriage is not a governing factor. Exceptions are provided as follows:

(1) Students below age 19 whose parents were residents of the state but left the state while the student who remained was still a minor; when the minor reaches age 18, the exception continues for one year to enable the student to qualify as a resident student.

(2) Students below age 19 who have been present in the state for more than one year before the residence determination date and entirely self-supporting for that period of time.

(3) Military personnel and their dependents while on active duty in the state, an exception not lost by the transfer of the military person to a post outside the United States.

(4) An adult alien student if the student has been lawfully admitted to the United States for permanent residence, provided that the student has had California residence for more than one year after such admission.

(5) State university and colleges employees, children and spouses.

At the University of California, a student is entitled to resident classification if immediately prior to the residence determination date, he or she

has lived with and been under the continuous direct care and control of any adult other than a parent for not less than two years, provided the adults have been state residents for the year immediately prior to the residence determination date.

COLORADO

The state statute that defines residency regulations for all public institutions of higher education in Colorado specifies that the student or his/her parents or guardian must have resided in the state for 12 months prior to enrollment to qualify for resident status. Prior to the start of the 12-month period, the student or the parents must establish domicile and indicate intent to remain in the state. Appeals are heard by committees established on each public college or university campus.

CONNECTICUT

In all institutions an unemancipated student (less than 18 and under the care and custody of his/her parents) qualifies for resident status if his/her parents have resided in the state for six months. An unemancipated person whose parent is a member of the armed forces and stationed in the state is classified as an in-state student. An emancipated person may establish resident status after six months if there is evidence that the student intends to make Connecticut a permanent residence. The spouse of any in-state student is classified as in-state. Procedures for classifying students for tuition purposes are formulated by the institutional governing boards based upon a combination of facts under the guidelines that state: "In reviewing a claim, relevant criteria to be applied shall include year-round residence, voter registration, place of filing tax returns, property ownership, driver's license, car registration, marital status, place of vacation employment and sources of financial assistance." By agreement of the presidents, the University of Connecticut waives nonresident fees for the children of faculty members from the Universities of Rhode Island and Maine.

DELAWARE

The University of Delaware: Student status for admission and fee purposes is determined solely by the university and may or may not coincide with domiciliary status for other purposes. The regulations governing student classification are intended to differentiate between Delaware students and non-Delaware students in an equitable way, and also to obviate, insofar as is practical, entitlement to preferential classification in more than one state at the same time. The status of an unemancipated student is dependent on the domicile of the parents or legal guardian. The status of an emancipated student is dependent on the student's domicile. In the case of a married student, status may be dependent on the domicile of the spouse. In general, to qualify as a resident the person on whom this classification is dependent must have established a bona fide domicile in Delaware and must have maintained a continuous residence therein for a period of 12 full months immediately prior to the first day of classes in the semester or session for which residency status is claimed. Without supporting evidence to the contrary, it is presumed that emancipated students do not fulfill the domiciliary and durational requirements while their principal occupation is that of student.

Delaware State College: The residency status of all students is determined during the time of their first registration at the college. Students who are minors are considered to be resident students if their parents or legal guardians have been residents of Delaware for at least one year. Adult students (at least 18 years of age) are considered to be residents of Delaware if they have been residents of the state for at least one year prior to the date of the first enrollment. A student may not change his/her residential status during the academic year. He or she may, however, apply for a change in status for subsequent years by making a written request to the admissions office, accompanied by documentary evidence that confirms legal residency in Delaware.

Delaware Technical and Community College: A student is considered to be a Delaware resident if he/she, his/her parents or legal guardian reside in Delaware and/or are subject to payment of Delaware income tax.

DISTRICT OF COLUMBIA

The Board of Trustees of the University of the District of Columbia has determined the basic requirement for residency status for students of the university as continuous domicile in the District of Columbia for three months immediately preceding and including the date of registration. Moreover, a student considered a minor by law is a resident of the district if a living parent complies with the above requirement. To be considered a legal resident of the District of Columbia, a student must show proof of a permanent resident where he/she intends to return after an absence and also intends to live for an indefinite period of time due to the abandonment of a former residence. Proof of a permanent residence satisfies the conditions of

legal residency for aliens residing in the district on permanent and immigrant visas. All students not meeting the requirements for residency status of the District of Columbia will be admitted to the university as nonresidents.

FLORIDA

The Board of Regents has the authority to make all rules and regulations governing the admission of students into the State University System. A Florida student is a person who shall have resided and had domicile in the state for at least 12 months immediately preceding the first day of classes of the current term. Students who are nonresident aliens or who are in the United States on a nonimmigration visa are not entitled to reclassification. However, Cuban nationals and Vietnamese refugees are considered resident aliens and the 12-month domicile provision applies to their reclassification. The spouse of any person classified as a resident is likewise entitled to in-state classification. A minor whose parent is in the armed forces and stationed in Florida under orders is classified in-state. The student while in continuous attendance, does not lose resident status if the parent is transferred on military orders. This same provision applied to nonmilitary students when a parent, having been domiciled in the state, moves from the state. In addition, an armed forces member on active duty is classified as an in-state student.

Appeal from a determination denying in-state status may be initiated by filing an action in court in the judicial district in which the institution is located. Several special resident categories exist: (1) veterans (including dependents) with 20 or more years of active service who retire in Florida or who move to the state within one year following retirement and intend to make Florida a permanent home; (2) full-time elementary, secondary and junior college faculty (excluding spouses); and (3) full-time faculty and career employees of the university system and their immediate families, excluding spouses. The State University System will accept nonresident students not to exceed 10 percent of the total systemwide enrollment. In addition, out-of-state tuition may be waived to attract students who have skills or abilities that will contribute to the academic environment of faculty and students.

GEORGIA

The 33 public colleges and universities in Georgia are governed by residency regulations established by the Board of Regents of the University System. The basic qualification for resident status is legal domicile in the state for at least 12 months immediately preceding registration. This applies to persons 18 years of age or older and to emancipated minors. The residency status of minors is determined by the status of his or her parents. A person's residency status is determined independently of that of his or her spouse. University System employees and their dependents and military personnel stationed in Georgia and their dependents are considered residents. Public school teachers and their dependent children may enroll as residents if the teachers have been legal residents for the immediately preceding nine months, were engaged in teaching during that nine-month period and have been employed to teach full time during the ensuing school year. Nonresident graduate students who work one-third time or more as teaching assistants are also classified as residents for tuition purposes. Foreign students attending school under financial sponsorship of Georgia civic or religious groups are classified as residents. Career consular officers and their dependents, actively representing their native countries and governments and whose nations have education reciprocity arrangements with the United States, are considered residents. In each institution an appeals procedure exists, with cases handled either by a committee or an administrative officer, including an appropriate hearing where requested by the student. That decision may be appealed to the president of the institution involved. The student may then apply to the Board of Regents for review of the president's decision. Presently, aliens holding a visa that entitles them to permanent resident status may establish legal residency in the same manner as citizens.

GUAM

Policy governing assessment of tuition and fees is the responsibility of the Board of Regents of the University of Guam. Tuition is free to all full-time freshman and sophomore students who have resided in Guam at least two years prior to admission. Honorably discharged veterans of the United States who have resided in Guam for two years are exempt from tuition for all four undergraduate years. Appeals are referred to the attorney general of Guam for final determination.*

HAWAII

The term "residence" used in the University of Hawaii rules and regulations is synonymous with the term domicile. Residence status combines physical presence in a place and the intent to make

*Information as contained in the 1970 survey. No updated information for Guam was received as of December 1, 1977.

such place one's permanent home. Intent has been interpreted to include registration to vote, filing a state income tax return, purchase of a home and other such criteria. Generally, no student is deemed a resident of Hawaii for tuition purposes unless the student is 19 years or older and has resided in the state 12 months prior to the first day of instruction. Once a student is classified as a nonresident, he/she will continue to be so classified until presentation of satisfactory evidence to prove resident status. Statutory exemptions to the residency regulations include persons who are residents of a state that permits Hawaii residents to pay the same tuition fees as its own residents at public institutions; military personnel and their dependents while such personnel are on active duty in Hawaii; persons domiciled in a district, commonwealth, territory or insular jurisdiction, state or nation providing no public institutions of higher learning; and employees of the University of Hawaii and their spouses and legal dependents. The residence of married persons may follow that of his or her spouse.

IDAHO

All public institutions of higher education in Idaho are governed by residency regulations established by the State Board of Education for determination of status and procedures for review. By statute a resident student is any student under legal voting age whose parents are domiciled in Idaho (having resided in Idaho for an indefinite time and abandoned the former residence), or any student of legal voting age or older who has resided in Idaho continuously for 12 months immediately prior to the opening day of instruction. There are a number of other ways to gain residency status, including (1) graduation from an accredited secondary school in Idaho, regardless of the residence of the parent, if the student matriculates at a public higher education institution during the term immediately following graduation; (2) marriage to a person classified or eligible for classification as a resident; (3) membership in the armed forces if stationed in Idaho; (4) residency, if under legal voting age, with a parent or guardian stationed in Idaho as a member of the armed forces; (5) residency, if under legal voting age, with a spouse in Idaho for 12 months immediately prior to the opening day of instruction; and (6) designation of Idaho as the home state upon separation under honorable conditions from the armed forces after at least two years of service. The State Board of Education may waive tuition to be paid by nonresident students.

ILLINOIS

Illinois has four boards that govern the senior public institutions of higher education in the state. Each board has established regulations for residency determination in the institutions under its control. This has resulted in considerable diversity in the regulations and their administration. The minimum period of actual residency in the state needed to qualify for resident status varies from 3 months at one institution to 12 months at others. Most institutions exempt faculty members and their dependents. Teaching assistants are exempt in most institutions as are military personnel and their dependents. The University of Illinois exempts veterans and employees (and their dependents) of "allied agencies" of state government that are related to the university program. Appeals are handled by various administrative officers in each institution.

INDIANA

The governing board of each of the public universities and colleges in Indiana has established policy for residency determination. In general, a minimum period of six months legal residence is required in the state to qualify for resident fees. Exceptions to the rules vary among the institutions. Some exempt only graduate assistants while others exempt faculty and staff and their dependents, foreign students and military personnel and their dependents. Both Indiana and Purdue Universities have committees that hear appeals, and in the case of the former institution an appeal may be carried to the board of trustees.

IOWA

The policy governing resident and nonresident classification for the three public universities in Iowa was established by the Board of Regents. It requires that a self-supporting student reside in the state for 12 months before attaining resident status for tuition purposes. During the 12-month period, the student shall not be enrolled for more than eight semester credit hours (four hours in summer session) at any of the institutions. The policy governing resident and nonresident classification for the two-year public community colleges and vocational/technical schools is established by the State Board of Public Instruction in cooperation with the schools. It requires that the domicile of a minor student shall follow that of the parent or legal guardian except when emancipation of the student can be proved.

A student 18 years of age or older and a married

student under 18 years of age shall be classified as a resident for two-year colleges, universities and vocational/technical schools if the student's parents were residents of the state when he/she reached majority or was married and if the student is not domiciled in another state. A minor student whose parents move from Iowa after the student is enrolled remains a resident until reaching the age of 18, provided that the student maintains continuous enrollment in Iowa and is not domiciled in another state. For the universities, dependent children of parents who enter the state with intent to establish permanent domicile are considered residents at the beginning of the next term, provided the child has been a continuous student. The spouse of a person who moves to Iowa for the express purpose of accepting full-time employment is considered a resident effective at the beginning of the next term following his/her move to the state. For community colleges and vocational/technical schools, a person who has reached the age of majority shall be classified as a resident if he/she has established domicile within the state at least 90 days prior to the beginning of the term for which he/she first enrolls.

For universities, an alien residing in Iowa on an immigration visa is subject to the same residency rules as those for a self-supporting adult. A certified refugee is accorded immediate residency status provided he/she comes directly to Iowa from a refugee facility or port of debarkation, or has resided in another state for 100 days or less and provides satisfactory documentation that he or she has an Iowa sponsor. For community colleges, an alien residing in Iowa on a permanent resident visa as classified by the Immigration and Naturalization Service may be classified as a resident provided that he/she has lived in the state for at least 90 days prior to the beginning of the term for which he/she first enrolls.

Military and federal personnel and their minor children who move into the state as the result of military or civil orders and not for the primary purpose of education are entitled to residency status. Graduate assistants at all three universities are exempt from nonresident fees. Faculty review committees are established on each university campus to hear appeals, with final appeals going to the Board of Regents. Review committees are established by each area community college/vocational/technical school to hear appeals on residency decisions, with final appeals going to the local area school board.

KANSAS

A combination of state statute and Board of Regents policy governs the determination of residency status for the public institutions of higher education in Kansas. The law stipulates that 12 months residence in the state prior to enrollment for any term or session is the minimum period needed to qualify for resident status. Faculty members, university staff and military personnel (and the dependents of all these) are considered residents for tuition purposes as are teaching, research or project assistants employed by the institutions. A reciprocal agreement exists between Kansas and Missouri that enables undergraduate students in certain academic fields and dental students to qualify for resident fees in the adjoining state. Resident classification appellate committees exist on each campus for the purpose of reconsidering original classifications.

KENTUCKY

The Council on Higher Education has established a basic set of definitions and guidelines that assist Kentucky public institutions in residency determination. Persons or their parents who establish or maintain permanent residence in the state have met the basic qualifications for resident status. This applies to persons over 18 years of age, or to those younger who are married and independent of their parents. When parents leave the state, their children are judged residents provided they maintain continuous enrollment toward the completion of one degree only. Military personnel and their dependents are considered residents, and this classification continues for dependents when the parent is overseas. An alien may earn resident status except if he possesses a student visa. On an institutional basis, graduate and research assistants are classified as out-of-state residents, but the institution remits partial tuition to them to equalize tuition. Faculty and staff members are residents by virtue of the general definition of residency covering all persons who establish a place of residence in the state. Appeal committees, established on the recommendation of the council, are found on each campus.

LOUISIANA

Separate but virtually identical statements of residency regulations have been established by the administration of Louisiana State University and by the governing board of the other public colleges and universities in the state. Parents who establish a bona fide residence in Louisiana earn immediate residence status for their children. An individual who enters the state becomes a resident for tuition purposes after 12 consecutive months of residence, provided he does not take more than six credits of

college work in any semester during that period. A student may also qualify if a deceased parent was a resident at the time of death, providing the student has not resided or been employed outside the state for two years or longer. A resident who leaves the state retains resident status for himself and his dependents for a period equal to the time he lived in the state. This right expires after he has lived in another state for 5 years or in several other states for 10 years. Full-time employees of the institutions, military and diplomatic personnel and the dependents of all these are classified as residents. Aliens on permanent visas can earn resident status but those on student visas are considered nonresidents. Appeal arrangements exist on most campuses, and Louisiana State University has both an appeals committee and a policy review committee that serves as a higher appellate body. There is a special tuition rate for students who are children of alumni living out of state.

MAINE

An adult student, defined as one who is either married or 18 years of age or older, must be able to prove a bona fide domicile in the state for at least a year immediately prior to registration for the term for which resident status is claimed. Upon proving to be a domiciliary, a nonresident student may be reclassified as a resident. The decision is made by the appropriate campus business manager. A student does not acquire a domicile in Maine until he or she has been in the state at least a year primarily as a permanent resident and not merely as a student. The domicile of an unmarried minor follows that of the parents or legally appointed guardian. The bona fide domicile of the father, if living, otherwise that of the mother, is the domicile of such a minor, but if the father and mother have separate places of residence, the minor takes the domicile of the parent with whom he or she lives or is assigned by court order. If a nonresident student has a spouse who has a residence in Maine, the student shall be deemed to have a residence in the state. In general, members of the armed forces and their dependents are normally granted in-state tuition rates during the period when they are on active duty within Maine.

MARYLAND

The University of Maryland Board of Regents and the Board of Trustees for State Universities and Colleges have established residency regulations governing students at the campuses of the university and the five state colleges. Each community college, St. Mary's College of Maryland and Morgan State University have residency regulations peculiar to those institutions. In general a student may be granted residency status if he/she is domiciled in Maryland for at least six consecutive months prior to the last day available for registration for a forthcoming semester. In determining domicile, several considerations are made; for example holding or renting property in Maryland, maintaining residence in Maryland for six consecutive months, paying state income tax, registering a motor vehicle in the state and possessing a valid Maryland driver's license and registering to vote in Maryland. In addition, special circumstance residency requirements apply to military personnel and those students who are spouses or dependents of a full-time employee of the institution in question.

MASSACHUSETTS

In Massachusetts separate but identical policies covering residency determination have been established by the Board of Trustees of the University and by the state government Division of State Colleges. To qualify for resident status a student or his/her parents must have maintained a domicile in the state for one continuous year prior to acceptance at an education institution. Emancipated students must provide proof of their independence, and students under guardianship must present documentary evidence of the appointment of the guardian. Wives assume the domicile and residence of their husbands. Institution presidents are granted discretion in handling individual cases. No specific exemptions to these regulations were reported. However, the University of Massachusetts, by reciprocal agreement with the state universities in neighboring states, accepts as residents the children of faculty members from the Universities of Connecticut, New Hampshire, Maine and Rhode Island. No formal appeal arrangements exist although the state colleges report that requests for reclassification may be forwarded to the Division of State Colleges.*

MICHIGAN

A resolution of the state legislature describes the intent of that body with regard to residency for tuition purposes, but the governing board of each institution is responsible for establishing the specific policies. In general, actual residence for six months prior to enrollment is the basic qualification. The respective boards must act in cases where a guardian seeks to qualify a student for resident status. Most institutions waive nonresident fees for faculty and staff and their dependents and for

*Information as contained in the 1970 survey. No updated information for Massachusetts was received as of December 1, 1977.

graduate assistants. Military personnel must reside in the state for six months to qualify in all institutions except Michigan State University, which waives the nonresident fee at first enrollment. Michigan State also waives the nonresident fee for full-time Michigan school teachers and administrators, state and federal government administrators or professionals, civilian administrators in military establishments, ordained clergymen and students from migrant worker families. Wayne State University waives the nonresident fee for students whose fees are paid by Michigan nonprofit education or civic organizations. Appeal procedures vary among the institutions but in most cases an administrative officer will hear appeals and has the authority to make adjustments.

MINNESOTA

The classification of students for tuition purposes in Minnesota is covered by policies established by the respective governing boards for higher education. At the University of Minnesota a student qualifies for resident status if he/she or the parents maintain a bona fide domicile in the state for 12 months. If a student at one of the state universities or his/her parents satisfy the six-months legal voter qualification, the student is classified as a resident. In all cases, a student may earn residence while enrolled. The state universities report almost no exceptions to their regulations. The university exempts graduate students employed at least 25 percent time, civil service employees on 75 percent time, full-time faculty and their families and diplomatic officials. New full-time faculty at other accredited Minnesota colleges, but not their families, are also classified as residents by the university. Military personnel stationed in Minnesota earn resident status in one year. The university considers all married students emancipated and thus eligible to qualify as adults, that is, by acquiring "interests of a relatively permanent character in the state." A resident female who marries a nonresident retains her status for one year and a nonresident female who marries a resident qualifies in one year. An interstate agreement with Wisconsin allows students living in one state to attend an institution in the neighboring state as a resident student. An interstate agreement with North Dakota allows students to attend institutions other than area vocational/technical institutes as residents. Appeal committees exist on most campuses but in some state universities, requests for reclassification are handled by an appropriate administrative officer.

MISSISSIPPI

A section of the Mississippi statutes and subsequent Board of Trustees policy govern the determination of residency for tuition purposes in the eight senior public institutions of higher education. A continuous period of at least 12 months residence immediately preceding admission qualifies a student for enrollment status. Any period of time in which the student is actually enrolled is not counted. When parents leave the state, their dependents who are enrolled as resident students immediately become nonresidents. A married woman may claim the residence of her husband or claim independent residence if she qualifies. Children of faculty or staff members are residents at the institution where the parent is employed and children of military personnel in the state are residents, even if the parent is later transferred overseas. Each institution awards regional scholarships that cover nonresident fees and each institution is authorized to waive nonresident fees for teaching and research assistants, holders of fellowships, winners of athletic and band scholarships and the children of alumni.

Aliens who are admitted as permanent state residents may not be classified as nonresidents for tuition purposes. Nonresident students may petition the institution for a change in residency status. Any person who has attained 21 years of age and has actually established residency and resided in the state 12 consecutive months after attaining 21 years of age may petition the institution for classification change. The institution may make reasonable inquiry into the validity of the claim and such petition for change of status must be made on or before the last day a student may register at the institution without penalty.

MISSOURI

Two sets of regulations govern residency determination in Missouri. One was formulated by the state's Commission on Higher Education and adopted by the six state colleges. The University of Missouri has its own regulations. However, both have some common features, such as the requirement of 12 months of actual presence to qualify for resident status. Both consider faculty, staff and military personnel (and the dependents of all these) as residents. The university grants resident status to a limited category of graduate students, those holding assistanceships requiring at least a 25 percent full-time equivalent employment schedule and those holding fellowships that do not include tuition. Southeast Missouri State extends residency to graduate students and foreign students. Reciprocal agreements with the University of Nebraska and the University of Kansas allow students who would

be classified as residents at the University of Missouri to qualify for resident fees in the architecture program at Nebraska and the dental program at Kansas. In the state colleges a student may also claim resident status if he/she or the parents register to vote in Missouri or pay at least $100 in state income taxes. Nonresident students at the University of Missouri may apply their state income tax payments, if any, against tuition charges and, in the case of a minor student, his parent or guardian may offset against tuition any state income tax they paid. Appeal procedures exist on all campuses with either a committee or an administrative officer designated for this purpose.

MONTANA

In 1973 the Board of Regents of the Montana University System adopted rules for the determination of fee status at state institutions of higher education in Montana. As a general rule, a student must have been domiciled in Montana for 12 continuous months and have the intent to become domiciled in this state. In addition, any graduate of a Montana high school whose parents or guardian lived in the state at least one full year of the two years immediately preceding his or her graduation from high school will be considered a resident for not more than five academic years if he or she remains in continuous attendance at an institution in the state. The spouse of any resident student or person entitled to classification as a resident shall be considered an in-state student. Also, the spouse and unemancipated children of a fully employed or fully retired person who can show evidence of domiciliary intent may be eligible for in-state status without having lived in the state for 12 continuous months. (This provision was established by state statute.) Appeals of nonresident classifications may be made to the Commissioner of Higher Education and the Board of Regents. The Board of Regents' fee waiver policy provides that two percent of the total enrollment at any institution may be granted remission of the nonresident portion of tuition.

NEBRASKA

State law governs the classification of students for tuition purposes in all public institutions of higher education in Nebraska. Emancipated minors, students of legal age and students not in the custody of parents, parent or guardian, shall not be considered residents unless an affidavit of intent has been signed stating that Nebraska is the student's permanent residence and has been the permanent residence for one year immediately prior to execution of the affidavit. In addition, an emancipated minor must not have been supported for two years or more prior to registration. A minor's residency follows that of parents or guardian and such parents or guardian must have established a home in the state and intend to make the state their permanent residence. A student does not lose residency status when parents move if such student has the intention to make the state his/her permanent residence. A nonresident who marries a resident of the state is considered a resident for tuition purposes. Aliens who have started the naturalization process and who intend to make the state their permanent residence are considered residents for tuition purposes. Dependents of staff members of the University of Nebraska or one of the state colleges and members of the armed services, or their dependents, on active duty and assigned permanent duty station within the state are also considered residents for tuition purposes.

NEVADA

State statutes outline regulations for determining resident status for students at the University of Nevada in Reno and Las Vegas and campuses of the Community College Division of the University of Nevada System. If students or their families have been bona fide residents of the state for six months prior to matriculation, they may be classified as residents for tuition purposes. All university professional personnel, public school teachers and teachers in private schools that meet certain curriculum requirements are also considered to be residents. No assessment of out-of-state tuition is made for summer session attendance. Neither marriage nor movement of the family to another state affects the resident status of a student who has previously qualified, and a student who once attended as a resident maintains that status unless he abandons his Nevada residence and establishes a residence elsewhere. Decisions of the admissions officer may be appealed to an appellate board for final determination.

NEW HAMPSHIRE

A student is classified as a resident or nonresident for tuition purposes at the time of admission to the University of New Hampshire System. The decision, made by the director of admissions, is based upon information furnished by the student's application and any other relevant information. All applicants living in New Hampshire are required to submit a notarized statement to the effect that their parents have been legally domiciled in New Hampshire continuously for a period of at least 12 months immediately prior to registering for the term for which the student is claiming in-state

status. Students admitted from states other than New Hampshire or from foreign countries are considered nonresident throughout their entire attendance at the university unless they shall have acquired bona fide domicile in New Hampshire. If the student maintains his/her residency apart from that of his/her parents, the student must clearly establish that his/her residence in New Hampshire is for some purpose other than the temporary one of obtaining an education at the university. To qualify for in-state status, the student must have been legally domiciled in New Hampshire continuously for a period of at least 12 months prior to registering for the term for which in-state status is claimed. The burden of proof in all cases is upon the applicant. In all cases the university reserves the right to make the final decision as to resident status for tuition purposes.

NEW JERSEY

A student is classified as a resident for tuition purposes upon admission to a New Jersey public institution of higher education if the student or the parents or guardian upon whom the student is financially dependent has been a bona fide resident of the state for at least one year immediately prior to admission. A student who does not qualify is considered to be in the state only for the purpose of attending school. The Board of Higher Education has established regulations to identify a resident student who meets the state's requirement. The governing board of an institution may approve the remission of nonresident fees in excess of resident fees for students of foreign nationality, up to 1 percent of the full-time enrollment.

NEW MEXICO

The Board of Educational Finance is charged with the responsibility of establishing residency regulations in New Mexico, and the regulations apply to all public institutions of higher education in the state. A student or his/her parents must have maintained a domicile in the state for 12 months prior to registration to qualify for resident status. A student (or his/her parents if student is a minor) who moves to the state must satisfy the 12-month rule, declare intent to relinquish residency in other states and establish it in New Mexico and provide some evidence of efforts to carry out this intent (registering to vote, gainful employment, etc.). Birth in New Mexico, descent from New Mexico forebearers or being related to alumni of colleges in the state does not qualify a student for resident status. Public and parochial school teachers of nine months' service who intend to remain in the state are considered residents for tuition purposes. Arrangements for hearing appeals of nonresident classifications vary among the institutions in this state.

NEW YORK

The governing boards of the State University of New York and the City University of New York establish residency regulations for their respective systems of higher education. The State University of New York requires no minimum period of residence to qualify a student for resident status. If the student or his parents have established a domicile in the state with intent to maintain it as a permanent domicile, the student is considered a resident for tuition purposes. A state resident attending a City University of New York senior college is charged the same tuition rate as a New York City resident. The City University determines a resident of New York City or the state to be a person who has continuously maintained his or her principal place of abode in the city of New York or New York state for a period of at least 12 consecutive months immediately preceding the first day of classes for the semester with respect to which the determination is made and will maintain his or her principal place of abode in New York City or in the state.

NORTH CAROLINA

As a result of a major reorganization of public higher education in North Carolina in 1972, administration of classification of students by residence for tuition purposes was entrusted in 1973 to a reconstituted state residence committee under the Board of Governors of the University of North Carolina and the State Board of Education. Upon recommendation from the committee, the two boards have adopted and periodically revise a residence manual, which embodies administrative and interpretive policies relative to the residence classification law. The statute and the manual govern residence classification for tuition purposes at the constituent university institutions and the community colleges and technical institutes.

A person may qualify for in-state tuition status by establishing legal residence in North Carolina and maintaining that legal residence for at least 12 months immediately prior to classification. The legal residence of a student's parents is prima facie evidence, but not necessarily conclusive evidence, of the student's legal residence. The prima facie evidence rule does not operate against a student who, prior to the enrolled term in question, has lived in North Carolina for five consecutive years. The legal residence of married persons, irrespective

of sex, is to be determined, as with unmarried persons, by reference to all relevant evidence of residentiary intent. The fact of marriage to a nonresident does not preclude one from maintaining North Carolina legal residence, nor does the fact of marriage to a resident cause one to acquire North Carolina legal residence. However, if at any point in time, both spouses have become North Carolina legal residents, then each spouse may claim the duration of legal residence of the two, which is the longer (with reference to the 12-month durational requirement). Service in the armed forces outside North Carolina does not of itself cause loss of resident tuition status. If a student who is enrolled and is enjoying in-state tuition status loses North Carolina legal residence, that student may continue enrolled at the in-state tuition rate for a 12-month grace period. Residentiary classifications are subject to appeal review successively to a campus-level agent or committee and to the state residence committee. Each institution establishes the details of its own classification and appeal-review procedures and the committee has its own policies and procedures.

NORTH DAKOTA

State law defines the qualifications for resident status in all North Dakota institutions of higher education. A student or his/her parents (or guardian) must have resided in the state 12 months prior to his/her registration to qualify for resident fees. However, if the parents (or guardian) show proof of "intent to establish residence in this state for a period of years" the student may be declared a resident for tuition purposes. Others exempt from payment of nonresident fees are military personnel and their dependents stationed in the state, dependents of faculty members at any institution of higher learning in the state and persons married to residents of the state. In 1973 an appeal procedure was amended into the nonresident law that provides that "any student who, because of peculiar or unusual circumstances, is aggrieved by the above definition of a nonresident student, may appeal to the Board of Higher Education and the board shall, if it determines the circumstances justify such action, admit such student to the institution of higher learning as a resident for tuition purposes." A 1977 amendment reduced the age level from 21 to 18 years, the earliest age the 12-month waiting period can begin.

OHIO

The Ohio Board of Regents through legislative mandate establishes a statewide residency rule whose objective is to "exclude from treatment as residents those who are present in the state primarily for the purpose of attending a state-supported college or university." In general, 12 months is the period required to establish residency for tuition purposes. There are two exceptions to the 12-month rule. Immediate residency is awarded to persons who are living and are gainfully employed on a self-sustaining basis in Ohio and who are enrolled as part-time students. Immediate residency is also granted to a person on active duty status in the United States military who is stationed and resides in Ohio. The dependents of the military person are also granted immediate residency. A resident student whose parents move out of state while the student is enrolled retains his residency status until the completion of his or her degree provided he or she is continuously enrolled during that period (summers excluded).

OKLAHOMA

The Oklahoma State Regents for Higher Education have established policy on residency determination that governs the classification of students in all public higher education institutions. An emancipated minor or an adult student who enters the state can earn resident status in 12 months provided this period comes before he first enrolls. Adults who enter the state to work full time, practice a profession or operate a business can immediately take four credits (three in summer session) at resident rates. If parents move into the state with the intention of remaining as residents, their dependent children immediately assume resident status. Military personnel stationed in the state and their dependents are exempt from nonresident fees and in some institutions faculty members, their dependents and graduate assistants are classified as residents for tuition purposes. A nonresident woman who marries a resident can attain resident status upon next registering, but this does not apply to a nonresident man who marries a resident. A resident woman does not lose her resident status because she marries a nonresident. Appeals committees are found on each campus governed by these regulations.

OREGON

The State Board of Higher Education sets policy governing residence classification for all public institutions in Oregon. The dependents of parents who enter the state with the intent of establishing a permanent domicile are immediately considered residents. Single adults and emancipated minors may qualify by 6 months actual residence prior to enrolling and 12 months after enrolling if, in the latter situation, they also establish a bona fide

permanent residence. Federal employees, both military and civilian, are considered residents as are all students who hold degrees from accredited institutions (except medical and dental students). Faculty members and their dependents are covered by the rule regarding those who enter the state to establish permanent residence. Graduates of Oregon high schools who enter as freshmen maintain their resident status even though their parents may leave the state. Additional exemptions are granted to summer session students, those taking less than seven credits and those taking extension or correspondence courses. An interinstitutional committee hears appeals and may waive nonresident fees for up to 5 percent of the total nonresident enrollment for "good and sufficient reasons." The State Scholarship Commission may award fee remission amounting to 10 percent of all nonresident fees collected to "qualified students from other states who are in need of financial assistance." Aliens, except those on student visas, may earn residency, and a resident woman married to a nonresident maintains resident status only if her parents continue to assume her college costs. Voting in another state is considered evidence of nonresident status.

PENNSYLVANIA

There are two sources of regulations for determining residency classification in Pennsylvania: the Board of State College and University Directors (for 13 state colleges and Indiana University); and the Auditor General (for Pennsylvania State University, Temple University and the University of Pittsburgh). Not less than 12 months continuous residence in the state by the student or his parents qualifies him for resident status in all institutions. Exemptions to these regulations vary among the institutions. Generally, the state colleges do not provide any exemptions except for military personnel and their dependents stationed in the state and for veterans returning to their homes in the state. The major universities exempt faculty and staff members and their dependents, government employees assigned in the state and military personnel who maintain that state as a home of record. Appeal arrangements vary but usually an administrative officer or body on each campus is designated to handle reclassification or appeal cases.

PUERTO RICO

The residence of a student is not a relevant consideration in the assessment of tuition or fees at the University of Puerto Rico.*

*Information as contained in the 1970 survey. No updated information for Puerto Rico was received as of December 1, 1977.

RHODE ISLAND

For the purpose of determining a student's classification as resident or nonresident, the word residence shall mean a student's true, fixed and permanent home and place of habitation. The term "emancipated student" shall mean a student who has attained the age of 18 years and whose parents are no longer under legal obligation to support or maintain such student. An emancipated student must establish a bona fide residence in the state for one year immediately preceding the first class day of the first term of registration. Any unemancipated student whose parents qualify as residents shall be considered a resident student. A student from another state or foreign country who is enrolled for a full program at a public college or university will be considered not to have established residence. Continued presence in Rhode Island during vacation periods will not, of itself, admit a change of classification. A student whose parent is a member of the armed forces and stationed in Rhode Island pursuant to military orders shall be entitled to classification as a resident student. The dean of admissions of each institution shall classify each person qualified for admission to a public college or university. Any student who claims that his status has changed may request the dean to redetermine his classification. A student may appeal the dean's decision to the board of residence review, whose decision shall be final.

SOUTH CAROLINA

Student residency requirements for the purpose of paying tuition and fees at state-supported colleges and universities are established by the General Assembly. Briefly, the laws extend in-state privileges to persons who have been domiciled in South Carolina for a period of no less than 12 months with the intention of making a permanent home therein, or in the case of unemancipated minors, whose parents have been so domiciled. A "minor" is a person who has not attained the age of 18. For the purpose of paying tuition and fees, the following categories of personnel are considered South Carolina residents regardless of length of domicile in the state: (1) full-time faculty and administrative employees of state institutions and the spouses and children of such employees; (2) spouses and children of active members of the armed services and active federal employees stationed in South Carolina; (3) persons and their spouses and unemancipated children, who have been domiciled in South Carolina for less than 12 months but who have full-time employment in the state. The governing board of the institution may

adopt policies for the abatement of any part or all of the nonresident increment of tuition and fees for students who are recipients of scholarship aid. The Commission on Higher Education prescribes uniform rules for the application of the laws regarding residency. The implementation of the rules of residency is a responsibility of the institution. Each has established procedures for determining residency upon enrollment, and for the student to appeal the determination if desired.

SOUTH DAKOTA

The South Dakota Board of Regents determines residency policy for public institutions. The parents of a minor applying for admission are considered residents of South Dakota if they have established a permanent residence within the state at least six months immediately prior to the date of the minor's matriculation at a state institution. A minor admitted before his/her parents have resided six months in the state will be reclassified as a resident the next registration after his parents have had in-state residency for six months. A minor whose parents move out-of-state is considered a nonresident commencing with the first registration after six months from the date of parents' move. A resident student 18 years old or over is one whose parents were residents of the state at the time the student reached 18, or who, while an adult, has established residency by being in the state six months immediately prior to registration. A nonresident student who reaches 18 years of age while a student does not automatically attain residence status.

Individuals moving into the state as a result of military or civil orders, or a minor child of such persons, qualifies for residency status after 12 months. Marriage of a nonresident to a person who is classified as a resident qualifies the nonresident spouse for residency. An alien who established a residency by living in South Dakota at least 12 months prior to registration is classified as a resident. Any person on full contract to a college or university or classified as a graduate assistant on a contract and his/her dependents will be classified as residents. Residency classification may be appealed to the Board of Regents. During such appeal the student is classified as nonresident.

TENNESSEE

A policy governing residency classification for all public higher education institutions in Tennessee has been developed through the cooperative efforts of the governing boards and the Tennessee Higher Education Commission. Children of parents who establish legal domiciles in the state are normally considered residents for tuition purposes while single individuals qualify for resident status if they have been employed in the state for 12 months while not a full-time student. An adult or married student who dwells in a house on his own property in Tennessee is considered a resident. Wives generally assume the husband's status but they may qualify independently on other grounds. Nonresident males who marry resident females are classified as residents in assessing tuition charges, as are aliens who intend to become citizens or who are on permanent visas. Military personnel stationed in the state and their dependents, and veterans with 12 months service who elect to settle in Tennessee, are also granted resident status. In some institutions graduate students with teaching, research or project assistantships are not required to pay nonresident fees. Appeals are heard by special committees in each institution and further appeals may be carried to the governing boards.

TEXAS

The basic regulations covering residency determination in Texas are found in the civil statutes. The Coordinating Board, Texas College and University System, has provided a detailed interpretation and a set of operational definitions for the guidance of postsecondary institutions in the state. Gainful employment and maintenance of a domicile in the state for at least 12 months prior to enrolling are the basic requirements for qualifying a person (but excluding aliens on temporary visas) or his/her dependents for resident status. Persons in the following categories (including aliens on temporary visas) are also considered to be residents for tuition purposes: new faculty members or employees of public colleges and universities and their dependents; teaching, research and project assistants in the institutions; military personnel stationed in the state and their dependents; dependents of military personnel whose last immediate assignment was in Texas; survivors of military personnel killed while in the service. Nonresidents (excluding aliens on temporary viasa), whether they are male or female, who marry residents qualify for resident status, and residents who marry nonresidents maintain their status as long as they do not adopt the legal domicile of the spouse. Special committees or designated administrative offices are authorized to hear appeals of nonresident classification on each of the college or university campuses.

UTAH

Member institutions of the Utah State System of Higher Education are governed by rules and regula-

tions established by the Board of Regents. Residence for a 12-month period prior to enrollment qualifies an adult student for resident status. A minor whose parents move to Utah to establish permanent domicile shall immediately be eligible for residency status. A student maintains residency status even when his/her family leaves the state. An emancipated minor may qualify for residence under rules that apply to a single adult. Aliens with permanent resident status may qualify according to applicable criteria for other citizens of the state. Military personnel assigned to active duty in Utah, their spouses and children, may be entitled to residency status for tuition purposes. Upon termination of military duty status, they are governed by standards applicable to nonmilitary persons. Students may appeal the residency classification ruling by an admissions officer to the institution's board of appeals for residency matters, the establishment, membership and procedures of which are governed by institutional regulations approved by the individual institutional councils.

VERMONT

The two higher education governing boards in Vermont establish residency regulations for the institutions under their control. Both require that a student must have been continuously domiciled in the state for one year prior to the date of application for a change to Vermont residency status. Domicile for residency purposes means a person's true, fixed and permanent home to which he intends to return when absent. Marital status shall not determine residency. Whenever a resident student loses Vermont domicile, as in the case of a minor whose parents move from the state, he/she shall be reclassified as nonresident. The Vermont State Colleges and the University of Vermont have committees on residence that hear and decide appeals.

VIRGIN ISLANDS

Residency regulations at the College of the Virgin Islands were proposed by the college administration and approved by the Board of Trustees. They establish a minimum period of domicile of one year for the student or his parents as a basic qualification for resident status. Marriage to a nonresident or an alien does not disqualify a resident student. If a nonresident marries a resident he/she qualifies for resident status in 12 months. Some scholarship funds are available to nonresident students that, in effect, exempt them from nonresident fees. Faculty and staff members and their dependents are considered residents for tuition purposes without a qualifying period. A student at the college may appeal to the dean if he or she seeks a change in classification.*

VIRGINIA

The policy governing classification of a student for the purpose of paying in-state tuition is contained in the Virginia Code. Basically, a student must be a bona fide domiciliary resident of Virginia for a period of at least one year prior to the commencement of the term, semester or quarter for which he or she receives the privilege. To be a domiciliary of Virginia, one must reside in the state with the unqualified intention of remaining in Virginia for the period immediately after leaving the institution and indefinitely thereafter. One cannot be a domiciliary of Virginia if one resides in Virginia solely for the purpose of securing an education. A student who is a minor ordinarily takes the domiciliary residence of the parent (either the father or the mother). An exception to the domiciliary residence requirement is provided, under certain conditions, to a student whose parent or spouse is stationed in Virginia while serving in the military. Such a student may be eligible to pay in-state tuition if the parent or spouse has lived in Virginia for at least one year prior to the student receiving the privilege, been employed full-time and paid personal income taxes to the state.

WASHINGTON

State law establishes the regulations for classifying students as residents or nonresidents for tuition and fee purposes in all public colleges and universities in Washington. If the student or the parents, if he or she is a minor, have maintained a domicile in the state for one year prior to registration for more than six credit hours per term, the student is classified as a resident. Children of federal employees residing in the state and families of faculty and staff members at the institutions are granted resident status immediately. Military personnel stationed in the state and their dependents are also classified as residents, as are aliens on permanent visas. The University of Washington and Washington State University are allowed to waive nonresident fees for up to 100 graduates of colleges from "friendly foreign nations." In addition to state-funded tuition and fee waivers and state need grants for resident students, nonresidents are eligible to participate in the state work-study program. Appeals or requests for reclassification are handled by designated administrative officers or special

*Information as contained in the 1970 survey. No updated information for the Virgin Islands was received as of December 1, 1977.

committees on each campus in accordance with uniform guidelines.

WEST VIRGINIA

Policy regarding classification of students for admission and fee purposes has been established by the West Virginia Board of Regents. The big factor in gaining resident classification is West Virginia domicile — at least 12 months of continuous residence within the state prior to the date of registration. Bona fide domicile means that the student must not be in the state primarily to attend an education institution and he/she must be in the state for purposes other than to qualify for resident status. The residence of a married person is determined by the same rules of domicile that would apply if he or she were not married. Persons assigned to full-time military service and residing in West Virginia may be classified as in-state residents for tuition and fee purposes after 12 months continuous location in the state. Decisions of the designated institutional officer charged with determination of residence classification may be appealed to the president of the institution. Presidential decisions regarding residency may be appealed to the Board of Regents.

WISCONSIN

Wisconsin statutes have established rules for determining the residency classification of students for tuition purposes in institutions in the University of Wisconsin System. To qualify as a resident, an adult student (18 years or older) or parents of a minor student must have resided in the state one year prior to matriculation in a university in the system. A minor student who is a child of divorced or legally separated parents, an orphan or a child under guardianship can qualify if that person "resided substantially" in Wisconsin during the years of minority and at least a year before registering at an institution in the system. Military personnel and "persons engaged in alternative service" stationed in the state and their dependents are granted resident status. A person who has graduated from a Wisconsin high school and whose parents are residents of the state for a year before the student registers (or whose parents were residents of the state for a year before their deaths) is a resident. The regents may remit nonresident tuition to a number of needy and worthy nonresident students not exceeding 8 percent of the nonresident enrollment of the respective institutions in the prior year. They may grant tuition remissions to a number of students not exceeding 2 percent of nonresidents registered in the preceding year who are deemed to be attending under "extraordinary circumstances." The regents may also remit nonresident tuition to "worthy and needy" foreign students or U.S. citizens from outside the United States, comprising up to 2 percent of the total enrollment of students at the respective institutions for the prior year. The regents may grant tuition remissions to teaching fellows and assistants and as athletic scholarships "up to the maximum number allowed by the appropriate athletic conference." Each member of the legislature may award one scholarship to a nonresident student that has the effect of granting resident status to the recipient. Appeals for reclassification are handled by committees on the individual campuses. Reciprocal agreements with Michigan and Minnesota provide for the exchange of students between these states and Wisconsin under specified conditions.

WYOMING

Regulations governing the classification of students as resident or nonresident for purposes of tuition are administered by each institution. For the University of Wyoming, a minor whose parent is domiciled in the state is considered a resident. An adult who has established his or her domicile in Wyoming and who has resided in the state for a continuous period of one year immediately preceding registration is considered a resident, except that living in the state primarily for the purpose of gaining an education does not qualify for residency purposes. For the purpose of this regulation, an adult is an individual 21 years of age or more, or a married person under that age maintaining a household in Wyoming with his/her spouse. An individual temporarily absent from the state due to military service, going to school or other temporary absence of a known duration, who retains the intention of returning to the state and who would have been classified as a resident at the time of departure, retains resident status provided such person enters an education institution within one year following termination of absence. In general, spouses are accorded the same residence status. Persons other than U.S. citizens admitted for permanent residence shall be classified as nonresidents. A decision of the director of admissions may be appealed to the residence classification committee. Such appeal must be submitted within 20 days of the beginning of the semester for which a classification change is requested.

In the community colleges, a student may be classified as a Wyoming resident if he/she meets at least one of several criteria: (a) his or her parents consider the state as their permanent home at the time of registration; (b) the student enrolls at a

community college for the fall term immediately following graduation from a Wyoming high school; (c) the student receives substantially all support from a resident of the state other than a parent; (d) the student has left military service or the Peace Corps within one year prior to registration and was a resident at the time of entry into such service; (e) the student has resided in the state for a continuous period of at least one year prior to registration; (f) the student, and/or his/her spouse, is making a permanent residence in the state and is gainfully employed on a permanent basis at the time of registration, or is married to a bona fide resident.

II. RELEVANT LEGAL ACTIONS

There have been a number of court cases challenging the residency classification procedures used by public institutions of higher education. These cases involve questions of the right of public institutions to assess tuition charges, admission to public colleges or universities and the reclassification of students who were initially considered nonresidents for tuition purposes. The brief summaries provided below attempt to cover the major issues in each case.

ARIZONA

Arizona Board of Regents v. Harper, 108 Az. 223, 495 Pac. 2d 453, ALR3d. 627 (1972).

Citing a variety of reasons, a group of students sought instate residency classification. A lower court decision ruled in favor of the students. Upon appeal, the Supreme Court reversed the lower court's decision, thus upholding the implied power of the Board of Regents to impose a residency requirement.

ARKANSAS

James E. Darr, Jr., et al. v. D. P. Raney, et al., No. F-70-C-15 (1971).

A class action suit challenging the University of Arkansas nonresident fee regulation resulted in an agreement between the plaintiffs and defendants on the form and substance of a revision to the regulations. The court decree invalidated the existing student fee regulations concerning nonresidents and directed the university to adopt and apply new regulations governing the classifications of students as in-state and out-of-state for the purposes of determining student fees. The changes created by this decision are now reflected in the state's residency regulations.

CALIFORNIA

Bryan v. Regents of University of California. 188 Cal. 559, 205 Pac. 1071 (1922).

This case was brought on behalf of a minor whose parents had resided in California 11 months prior to the date she sought to enter the university. She was classified a nonresident because the statutory qualifying period was one year prior to initial registration. It was argued that the residency law was unconstitutional because of a state constitutional provision that prohibits granting privileges to any citizen that ". . . shall not be granted to all citizens." The court agreed that the student was a citizen but held that residency classification at the university was not unreasonable or arbitrary. The opinion stated that in view of the fact that there is a one-year qualifying period for voting privileges, ". . . There seems to be no good reason for holding that the legislature may not make a similar classification in fixing the privilege for attending the state university."

Kirk v. Board of Regents of the University of California, 78 Cal. Rptr. 260 (1969).

In this case a resident of Ohio married a California resident and shortly thereafter sought to enter the University of California. She was classified a nonresident for tuition purposes under the university requirement of a one-year qualifying period. The suit was based on the recent nullification of residency requirements for welfare recipients. The court ruled in favor of the university, commenting that the welfare case ". . . involved the immediate and pressing need for preservation of life and health . . ." but that the present case did not involve similar risks. The case was decided by the California Court of Appeals and subsequently the United States Supreme Court refused to hear the case, thus upholding the decision of the Court of Appeals.

Wong v. Board of Trustees, California State University and Colleges, 53 Cal. Ap. 3rd 705 (1975).

The plaintiff sued for the right to claim residency immediately upon receiving permanent resident status in the United States. The court found that a permanent resident registered alien must reside within the state of California for at least 12

consecutive months before being qualified for resident status.

COLORADO

Landwehr v. Regents of University of Colorado, 156 Colo. 1, 396 Pac. (2d) 451 (1964).

The plaintiff sought refund of nonresident tuition paid during his four years at the University of Colorado plus punitive damages. Sections of the United States and the Colorado constitutions guaranteeing equal protection, due process and equal rights and privileges were cited. The court ruled that the matter of classifying students as residents or nonresidents by the university was authorized by the statutes and only open to question if it amounts to an unreasonable and arbitrary classification. The conclusion of the court stated: "It is our considered view that this classification is not arbitrary or unreasonable and is not so lacking in foundation as to contravene the constitutional provisions."

Covell v. Douglas, 179 Colo. 443, 501 P2d 1047 (1972).

The appellant challenged a statute that, in effect, established a presumption of nonresidency for tuition purposes as to formerly classified out-of-state students and sought to have the particular section of the statute declared unconstitutional. The statute provided that an out-of-state full-time student could not qualify for a change in classification for tuition purposes unless he/she had spent 12 continuous months in residence while not attending an institution of higher education in the state. The Colorado Supreme Court adopted the rule declared in *Kline v. Vlandis*, 346 F Supp 526 (D.C. Conn, 1972) and in *Carrington v. Rash*, 380 U.S. 89, 85 S. Ct. 775 that a conclusive presumption may not be utilized to classify a person as a nonresident when he is in fact a resident. The court held that the conclusive presumption established in the statute imposed an invidious discrimination which violated the 14th Amendment. The court found Covell distinguishable from *Landwehr v. Regents*, 156 Colo 1, 396 P2d 451, and noted that Landwehr's challenge regarding the disparity in amounts charged in- and out-of-state students was based upon the privileges and immunities clause in Article IV, Section 2 of the United States Constitution. It specifically reaffirmed the Landwehr ruling that the classification of students applying for admission to state tax-supported universities into in-state and out-of-state groups is not arbitrary or unreasonable and does not violate the privileges and immunities clause.

CONNECTICUT

Vlandis v. Kline, 93S. Ct. 2230 (1973).

In *John W. Vlandis v. Margaret Marsh Kline and Patricia Catapana*, the plaintiffs sought to force the state of Connecticut to allow nonresidents to establish residency for tuition purposes. The law stated that the state required nonresidents enrolled in the state university system to pay tuition and other fees at higher rates than residents and provided irreversible and irrebutable statutory presumption that because the legal address of a student, if married, is out of state at the time of application for admission or, if single, is out of state at some point during the preceding year, he/she remains a nonresident as long as he or she is a student in Connecticut. The United States Supreme Court (No. 72-493, June 11, 1973) found that standards of due process require Connecticut to allow individuals the opportunity to present evidence showing that they are bona fide residents and entitled to in-state rates. Subsequent state laws amended the residency requirements and allow nonresidents this opportunity.

FLORIDA

Weitzel v. State, Fla.App. (1st), 306 So.2d 188 (1975).

This case upheld Rule 7.6, Florida Board of Regents' *Operating Manual* and further upheld the authority of the regents to impose specific prerequisites for Florida student designation. The rule is as follows: "For the purpose of assessing registration fees, students shall be classified as Florida and non-Florida. A Florida student is a person who shall have resided and had his domicile in the State of Florida for at least twelve (12) months immediately preceding the first day of classes of the current term."

Board of Regents of the Department of Education v. John S. Harris, 338 So.2d 215 (Fla. 1 DCA 1976).

A student brought action to recover a portion of tuition contending that he should have qualified as a Florida student for tuition purposes. A circuit court upheld his case; the university appealed. The District Court of Appeal reversed the decision and ruled that where a student was a minor he lacked legal capacity to establish a Florida domicile separate and apart from his parents; and that in order to qualify for resident tuition rate, it was necessary not only to establish domicile but to evidence that domicile by durational residence of 12 months.

HAWAII

There have been no actual relevant court cases in Hawaii related to residency for the purposes of tuition. However, several attorney general opinions have been submitted: (1) Att. Gen. Op. 69-13, which discussed the implication of *Shapiro v. Thompson*, 394 US 618, on validity of tuition differential for resident and nonresident students; (2) Att. Gen. Op. 69-16, on nonresident tuition and how applicability to graduate students and residence qualifications is construed; and (3) Att. Gen. Op. 71-13, upholding that graduate students from states with uniform graduate tuition fees are not exempt from payment of nonresident tuition fees. In addition a case note (363 F. Suppl. 677) upheld that the 12-month durational residency requirement is valid.

IDAHO

Newman v. Graham et al., State Board of Education, 82 Ida. 90, 349 Pac. (2d) 716 (1960).

After completing one year as a nonresident student at Idaho State College (now Idaho State University), the plaintiff sought to register as a resident for tuition purposes. The Idaho residency regulations required that if a student was properly classified as a nonresident upon initial admission he would maintain that classification throughout his continuous attendance at any public Idaho college or university. The court ruled that while the Board of Education had the right to establish necessary rules and regulations, the regulation requiring a student's original residency classification to go unchanged was "arbitrary, capricious and unreasonable." Thus, it held that the plaintiff should be reclassified as a resident because he had complied with all other requirements for establishing residence.

IOWA

Clarke v. Redeker et al., 259 F. Supp. 117 (1966)

The plaintiff, a resident of Illinois, attended the State University of Iowa as a nonresident student. He later married an Iowa resident and entered the law school where again he was classified as a nonresident for tuition purposes. He contended in his suit that this classification violated the equal protection and privileges and immunities clauses of the 14th Amendment and that the regulations discriminate against a nonresident male whose wife is a resident. Further, he contended he was a resident of the state. The court ruled that interpretation of the residency regulations followed by the university's residency review committee tends to prevent the regulations from being unreasonable or arbitrary limits on the student's privileges. Further, it held that he had established a substantial basis for being classified as a resident for tuition purposes and suggested that the review committee be given an opportunity to reconsider the case in light of this opinion. Subsequently Clarke was reclassified a resident and neither party in the case appealed further.

Clarke v. Redeker et al., 406 F (2d) 883, 8th Cir. (1969)

In a second case involving the same parties as in the case reported above, the student sought damages for being charged nonresident fees in the years prior to his first suit (1964-67). The court held that where a student in his first suit sought an injunction against enforcement of tuition regulations, he could not seek damages in a second suit for being charged nonresident fees. It said that the question of payments was a matter that might have been and should have been determined in the original case.

Johns v. Redeker and Twist v. Redeker, 406 F (2d) 878, 8th Cir. (1969)

Both of these cases sought injunctions and damages with respect to the Board of Regents requiring nonresident students in public universities in Iowa to pay a higher tuition than that assessed residents of the state. Twist intervened in the original action brought by Johns. The courts allowed both cases to be prosecuted as class actions; that is, on behalf of the plaintiffs and all other persons similarly situated. The allegation was that the assessment of higher fees deprived the plaintiffs of their rights under the equal protection clauses of the 14th Amendment. The original trial court refused to convene a three-judge court on the grounds that no substantial federal question was present, basing its decision in part on the Clarke case reported above. The 8th Circuit Court of Appeals upheld this ruling. In a subsequent appeal, the United States Supreme Court refused to hear the cases.

KENTUCKY

Hayes v. Board of Regents of Kentucky State University, 362 F.Supp. 1172 (E.D.Ky. 1973).

In 1972 the plaintiff registered to vote in the state of Kentucky, applied for in-state tuition rates at Kentucky State University and was denied. A suit was brought before the district court in which the plaintiff claimed that registering to vote is evidence of residency within a state and that the guidelines laid down by the Council on Higher Education

requiring proof of the intent to maintain residency in the state were unconstitutional. The court upheld the university and an appeal was lodged with the appelate court in *Hayes v. Board of Regents of Kentucky State University*, 495 F.2d 1326, 6th Cir. (1974). The district court's decision was affirmed. It was stated that voter registration was not conclusive proof for tuition purposes and that the existing guidelines set down by the Council on Higher Education to show intent are valid criteria.

MARYLAND

Elkins v. Moreno, No. 17-154, United States Supreme Court, pending in December 1977.

In May 1975, students at the University of Maryland brought suit in the district court against the university and its president. The students challenged the university's policy of denying in-state status for tuition to holders of G-4 visas or those who are financially dependent on persons holding such nonimmigrant status. The district court on July 13, 1976, said that by the use of a presumption of nondomicile for G-4 aliens, the university denied the plaintiffs the opportunity to demonstrate that they were entitled to in-state status for purposes of tuition and charge differentials.

The students had relied first and foremost on the *Vlandis v. Kline*, 412 U.S. 441 (1973), case which held that an unconstitutional "permanent" irrebuttable presumption of nonresidence was created by a Connecticut statute that denied an out-of-state applicant for admission to a public college advancement to in-state status for the entire period of his/her attendance at the school, when that presumption was not universally true in fact.

The decision of the district court was affirmed by the U.S. court of appeals. The university sought review by the Supreme Court, which was granted in October 1977. The university urged the Supreme Court to lay to rest a fundamental misapplication of the irrebuttable presumption doctrine,. The university contended that the judgment of the U.S. Court of Appeals for the 4th Circuit should be reversed and *Vlandis v. Kline*, *supra*, should be overruled.

In the October 1977 brief of the American Council on Education, et al., the conclusion stated that because of the deleterious effect of *Vlandis* on a host of state legislative judgments, including rationally based tuition policies of public colleges and universities, and in light of the importance of discarding the irrebuttable presumption doctrine, amici urge that the court reverse the judgment of the U.S. Court of Appeals for the 4th Circuit and that in so doing the court overrule *Vlandis v. Kline*, *supra*.

It is anticipated that the Supreme Court will hear oral argument during either its February or March term. A decision will be rendered by July 1978.

MISSISSIPPI

Edward R. Jagnandan, et al. v. William L. Giles, et al., No. EC73-9-K (1974).

This self-styled case challenged the constitutionality of Section 37-103-23 of the Mississippi Code 1972 that stated "All aliens are classified as nonresidents" for the purpose of tuition and fees at state-supported institutions. A three-judge federal panel declared the section unconstitutional and ruled that ". . . aliens lawfully admitted for permanent residence in the United States, who reside in the State of Mississippi. . . ." cannot be charged fees and tuition in excess of those charged state residents. A further attorney general opinion noted that this judgment affected only aliens attending institutions of higher learning in the state and those admitted as permanent residents and the opinion excepted the voting requirement as aliens cannot vote until they are accorded citizenship.

Attorney General Opinion, October 17, 1973.

An attorney general opinion cited several cases in the state of Mississippi that related to residency for tuition purposes: (1) *Ginger v. Fortune*, WC 73-90K, related to the student's right to reclassification as a resident for fees assessment; (2) *Dubbard v. McKay*, 193 So.2d 129, 132, related to domicile; and (3) *Cheek v. Fortune*, 341 F. Supp. 729 (N.D. Miss.), relating to assessment of nonresident tuition. The opinion held that in order to become a resident for tuition purposes, a nonresident minor must have resided in the state with the intent to establish domicile for at least 12 months after reaching the age of majority (21 years), and that the mere fact that an individual has been initially classified as a nonresident for tuition purposes while attending a college and/or university does not bind him or her to that classification while in pursuit of an education (see *Vlandis v. Kline*, Connecticut).

NORTH CAROLINA

W. C. Barker v. Iowa Mutual Insurance Co. 85 S. E. (2d) 305 (1955).

This was actually an insurance case in which a man brought suit to recover damages resulting from a fire that destroyed property belonging to his son who was a nonresident student in a North Carolina university. In a statement somewhat incidental to the primary issue of the case, the North Carolina court held that a student who comes from another state and who enrolls in a public college or university remains a nonresident student insofar as tuition is concerned.

Hall v. Wake County Board of Elections 187 S.E. 2d 52 (1972).

In the context of determining residence for purposes of county precinct voter registration, the North Carolina Supreme Court catalogued general law on domicile (legal residence) and noted that a student "who leaves his parents' home to enter college" is presumed "not domiciled in the college town to which he goes" but that the presumption is rebuttable by evidence that the student has the intent to make that place his "permanent home of indefinite duration," i.e., his domicile. The fact situation in this case involved asserted domicile in the county based in part on residence in a college dormitory. Because of prior findings by the trial court judge, the North Carolina Supreme Court, however, did not undertake to determine whether or not the student was in fact a domiciliary of the county. The court merely affirmed the legal possibility that the trial court could have so found, as it did.

Glusman et al. v. The Board of Trustees of the University of North Carolina, 190 S.E. 2d 213 (1972); decision for respondent reversed 93 S. Ct. 2999 (1973).

In an action by a law student to recover the nonresident tuition differential he had paid for two prior enrolled years the North Carolina Supreme Court sustained as constitutionally valid a requirement that a residentiary durational period of six months be exclusive of enrolled time. On appeal by the petitioner to the United States Supreme Court the prior decision was vacated in a memorandum decision remanding the case to the North Carolina Supreme Court for further consideration in light of *Vlandis v. Kline et al.* (Connecticut) 412 U.S. 441 (1973). In *Vlandis* the United States Supreme Court had held unconstitutional exclusion of enrolled time as a period with respect to which a residentiary claim could be made and proved. The holdings of *Hall* and *Glusman* have been accommodated into the residentiary classification system by subsequent amendment to the state statutes and the residence manual.

NORTH DAKOTA

Jonathon McConaughey Burke and Chris Alan Kinnison v. Kenneth Raschke, et al., Civ. No. A2-75-102 (1977).

The plaintiffs stated in this case that they had been denied the right, equal to the right accorded a student 21 years and older whose parents, custodial parent or guardian reside outside that state, to establish residency in North Dakota for tuition purposes. The United States District Court held that the plaintiffs' constitutional right to equal protection of the law has been violated and that they were entitled to a review of their residency status for tuition purposes and appropriate relief if it is determined from such review that they were entitled to attend the University of North Dakota with resident classification.

OHIO

Kaplan v. Kuhn et al., 8 O. N. P. 197, 110 O. D. (N.P.) 321 (1901).

The plaintiff was born in Germany and came to the United States at age 12 to reside with his father who was a naturalized citizen. When he was 19 the plaintiff moved to Cincinnati where he attended high school for three years. Later he became self-supporting, reached the age of majority, voted in three city elections and contended he did not intend to leave the city. The court ruled that he was entitled to free tuition at the University of Cincinnati, a municipal university that enrolled resident students without tuition charges.

Halaby v. Board of Directors of the University of Cincinnati, 162 Ohio St. 290, 123 N. E. (2d) 3 (1954).

In another Cincinnati case the court ruled in favor of the plaintiff also. He was a minor alien who resided with his parents who owned property and operated a business in the city. He sought to enter the University of Cincinnati as a resident student but was refused this classification. The court held that alien residents of the city were entitled to the same privileges as other residents and that the student should be granted resident status by virtue of that fact.

VERMONT

Shotkin V. U.V.M., 133 Vt. 401, 346 A 2d 525 (1975).

The court, in this case, held that "In context of instant case, University of Vermont's definition of domicile was not more restrictive than the com-

mon law definition and thus was not inconsistent with. . . ." Vermont Statutes Annotated, Title 16, Section 2282a. The court held that the University of Vermont's one year domicile for resident tuition purposes was not in violation of the law.

WISCONSIN

Priest v. Regents of The University of Wisconsin, 54 Wis. 159, 11 N. W. 472 (1882).

This case reaffirmed the right of the university to regulate tuition and fees by stating: "All the acts of the legislature relating to the university, construed together, conclusively establish the power of the board to exact fees from the students for admission, instruction, and the incidental expenses of the university, except as such power is, from time to time, expressly limited."

Walters v. Hoover et al., a civil action pending before the U.S. District Court, Western District of Wisconsin (1970).

This suit was brought by a first-year law student at the University of Wisconsin (Madison) attacking the constitutionality of the residency classification statute now applied at the university and also the method of its administration. This was a class action brought on behalf of all students at the university who qualify as residents for some other purpose. It charged that the statute is unconstitutional because it "applies an invidious distinction between classes of citizens of the state"; hinders the right to "travel from one state to another" and "freedom of association"; discriminates on the basis of sex; and is "an arbitrary, irrational, and unreasonable classification that tramples upon the rights of due process and equal protection of the laws." The plaintiff asked for a three-judge panel to hear the suit and the case was dismissed.

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